

THE HONORABLE ROBERT J. BRYAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JEFF GRUVER,

Plaintiff,

v.

LESMAN FISHERIES INC., BOB LESMAN;
and F/V SUNSET CHARGE, Official
Number 534685, *in rem*,

Defendants.

AT LAW AND IN ADMIRALTY

Case No. C04-5428 RJB

STIPULATED MOTION FOR
CONTINUANCE

The parties have completed discovery. At this point in time, pursuant to the Court's order setting trial and pretrial dates, the parties are to mediate no later than August 7, 2005. Trial is set for September 6, 2005.

The parties are having difficulty complying with these Court deadlines. In particular, both plaintiff and defendant are presently fishing and cannot be expected to return and both be available to coordinate mediation in time for the August 7, deadline. The parties have considered the possibility of waiting until August 1, when both clients will be available for scheduling, and setting a mediation date beyond the deadline. However, that pushes the mediation to within less than one month from the trial date.

That might be workable, but an additional concern centers on the Court's concerns over subject matter jurisdiction in this case. In the Court's order dated July 5, 2005, denying defendants' motion to dismiss the *in rem* claim, Docket 37, and denying plaintiff's motion regarding punitive damages, Docket 36, the Court also stated:

The court questions whether maritime law applies to this case, and if not whether this court has jurisdiction. The parties should be prepared to discuss this issue at the pretrial conference.

That pretrial conference is scheduled for August 26.

The parties have conferred and agree that at this juncture it would be preferable to put the matter of the Court's subject matter jurisdiction, and the applicability of maritime law to the Court by motion. By agreement of the parties defendant will file the motion prior to Friday, July 22, 2005, with a noting date for Friday, August 19, 2005. While the motion is pending, both plaintiff and defendant will return from their current fishing excursions and be available to their attorneys to schedule and participate in mediation in early September.

The parties have consulted with the clerk and obtained November 14 as a trial date when this matter will be first set.

Accordingly, the parties hereby agree and stipulate to a continuance of certain deadlines as follows.

	<u>Current Date</u>	<u>New Date</u>
Trial Date	09/06/05	11/14/05 (or any time during that week that the Court can hear the testimony)
Mediation Deadline	08/07/05	09/09/05
Agreed Pretrial Order Lodging	08/20/05	10/21/05
Pretrial Conference	08/26/05	10/28/05

Dated: 7/18/05

HOLMES WEDDLE & BARCOTT

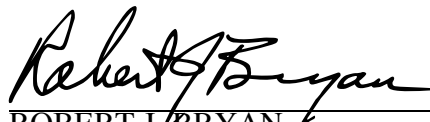
/s/
Philip W. Sanford, WSBA #18593
Attorney for Defendants

Dated: 7/18/05

/s/
John W. Merriam, WSBA #12749
Attorney for Plaintiff

ORDER

IT IS SO ORDERED.



ROBERT J. BRYAN
United States District Judge